



## CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 31, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0251

### Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	15.015 - Bomb Threats & Explosive Devices 15.015-POL 1. Only Arson Bomb Squad (ABS) Personnel Who are Currently Certified as Bomb Technicians Shall Handle Explosive Devices	Sustained
# 2	5.001 - Standards and Duties 5.001-POL 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained - Unfounded
<b>Proposed Discipline</b>		
90 Hours Suspension (10 Days)		
<b>Imposed Discipline</b>		
81 Hours Suspension (9 Days)		

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

#### **ADMINISTRATIVE NOTE ON PROPOSED FINDINGS:**

*When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee’s chain of command and the department’s human resources representative, convenes and may propose a range of disciplinary to the Chief of Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.*

#### **EXECUTIVE SUMMARY:**

The Complainant alleged that Named Employee #1 (NE#1) handled a suspected explosive device without authorization. The Complainant also alleged that NE#1 disobeyed orders to stop and step away from that device.

#### **ADMINISTRATIVE NOTE:**

On September 7, 2023, the Office of Inspector General (OIG) certified this investigation as timely and objective.

However, OIG declined to certify it as thorough. OIG noted that the complaint indicated that Witness Supervisor #1 (WS#1)—a sergeant on the scene—repeatedly told NE#1 to stay away from the device. However, during their OPA interviews, NE#1 and WS#1 denied that allegation. No BWV captured the initial conversation between NE#1 and WS#1. BWV only recorded audio after NE#1 engaged the device. Ultimately, OIG opined that “Due to the time which elapsed between the incident and [WS#1’s] interview, and the fact his interview conflicted with the narrative provided



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by [the Complainant], OIG feels a follow-up interview of [the Complainant] may have provided additional clarity of those conflicting statements.”

OPA appreciates OIG’s perspective but respectfully disagrees that this investigation was unthorough. The Complainant’s account was based on second-hand information since she was not at the scene. WS#1’s BWV showed no other people were in earshot of NE#1 and WS#1 before or when NE#1 handled the device. Moreover, the audio recorded by WS#1’s BWV did not suggest NE#1 disobeyed an order. NE#1 and WS#1—the parties to the conversation at issue—stated no orders were given. Finally, in her Blue Team complaint, the Complainant described NE#1’s actions as “an *intentional and reckless* violation of 15.015,” but notably stated NE#1’s actions “were *potentially* a violation of 5.001 Standards and Duties POL 15 Employees Obey any Lawful Order Issues by a Superior Officer.” (Emphasis added). OPA acknowledges that interviewing the Complainant would have made this investigation more thorough. Still, considering the Complainant’s lack of firsthand knowledge, OPA disagrees that not interviewing her constituted an unthorough investigation.

During its investigation review, OIG flagged WS#1’s failure to establish and secure a perimeter as required by SPD Policy 15.015-Pro-1 (Sergeants instruct all officers to check in before entering the scene and to establish a perimeter commensurate with the level of threat). OPA forwarded that concern to WS#1’s chain of command for Supervisor Action.

#### **SUMMARY OF INVESTIGATION:**

The Complainant submitted an OPA complaint on August 15, 2022. In it, she wrote that she received an email from SPD’s Special Response Unit’s lieutenant (SRU Lieutenant) on August 11, 2022, concerning an incident that occurred the day prior.

The Complainant conducted a preliminary investigation and relayed the underlying facts to OPA. On August 10, 2022, SPD officers responded to a property owner’s call after construction workers notified her about narcotics paraphernalia, possible narcotics, and bullets inside her rental property. The construction workers also located a stuffed animal containing what appeared to be a pipe bomb. The construction workers removed the item from the house, placed it on a retaining wall, and alerted the officers.

WS#1 was notified and responded to the scene. Officers staged a perimeter and awaited the Arson and Bomb Squad (ABS). NE#1 arrived. Neither NE#1 nor WS#1 had activated BWVs, as WS#1 told perimeter officers they could deactivate their BWVs.

The Complainant alleged that NE#1 removed the suspected pipe bomb from the stuffed animal and attempted to disarm it. The Complainant also alleged that WS#1 told NE#1 “several times to stop and move away from the device.” The Complainant alleged that NE#1 disregarded WS#1’s orders and continued handling the device before NE#1 “abandoned his efforts and left the scene entirely.” ABS officers arrived thereafter and determined the pipe bomb was real. Per the Complainant, the SRU lieutenant opined that had NE#1 “created a spark and subsequent detonation, he (and anyone in proximity of the bomb or shrapnel) likely would have been killed or seriously injured.”

The Complainant alleged NE#1’s actions were an “intentional and reckless” violation of SPD Policy 15.015 (Bomb Threats & Explosive Devices). The Complainant also alleged that NE#1 potentially violated SPD Policy 5.001-POL-15 (Employees Obey any Lawful Order Issued by a Superior Officer).



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OPA opened an investigation. During its investigation, OPA reviewed the complaint, computer-aided dispatch (CAD) call reports, an incident report, body-worn video (BWV), Google Maps view of the incident location, and photographs of the incident location. OPA also canvassed the scene and spoke with civilian eyewitnesses. OPA also interviewed WS#1 and NE#1.

**a. CAD Call Reports and Incident Reports**

The CAD call reports and the incident report were consistent with the background information summarized in the complaint.

**b. BWV**

WS#1's BWV, the only BWV relevant to this investigation, showed:

WS#1 stood on a sidewalk, apparently alone, inside a police-taped area. The police tape ran across the entirety of the street on either side of the rock wall where the pipe bomb was located and along the sidewalk directly across the street from the pipe bomb.

NE#1 stood alone on the sidewalk across from WS#1. NE#1 and WS#1 approached each other, then NE#1 redirected towards the pipe bomb. WS#1 followed but stopped about twelve feet from the pipe bomb.<sup>1</sup> NE#1 leaned directly over it and appeared to manipulate it with his left hand for about five seconds.

NE#1 stood up and spoke with WS#1. NE#1 returned to the pipe bomb and continued manipulating it with his hands. WS#1 activated his BWV.<sup>2</sup> As NE#1 manipulated the pipe bomb, WS#1 said, "Yeah, I want, uh, ABS come here and dispose of that." BWV did not capture NE#1's verbal response, but he manipulated the pipe bomb for another ten seconds.

NE#1 then stood up and told WS#1 his assessment of the pipe bomb. NE#1 said, "It's disarmed and could probably be unscrewed." NE#1 asked WS#1 if he needed to do "traffic control or anything." WS#1 responded, "So if you want to hang out here, if not, you can just take off." NE#1 responded, "Thank you. I might leave if something comes up," while appearing to walk away. WS#1 replied, "Alright, cool."

**c. Google Maps, Photographs, and Community Member Interviews**

Google Maps, photographs, and other BWV (that did not depict NE#1's interaction with WS#1 or the pipe bomb) showed that the pipe bomb sat on a rock wall that ran along a sidewalk. The rock wall was located on a residential street and appeared part of residential landscaping.

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<sup>1</sup> Distances are approximations based on BWV.

<sup>2</sup> BWV has a "buffering" period. After BWV is activated, audio and video begin recording. Additionally, a video of the minute preceding activation is captured. No audio is recorded during the buffering period. Here, no audio was recorded by WS#1's BWV until WS#1 activated his BWV about 56 seconds into the recording.



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OPA canvassed the neighborhood for witnesses. OPA spoke with residents who said they saw an officer handling the device. Their description of that officer was consistent with NE#1's physical description. The residents said another officer was possibly present but denied hearing any shouted orders.

**d. OPA Interview – WS#1**

OPA interviewed WS#1. WS#1 said he worked as a patrol sergeant on the incident date. WS#1 recalled being dispatched for a suspected explosive device.

WS#1 described assuming command after arriving on the scene, photographing the device from a distance, and then sending the photograph to ABS. ABS notified him they were en route.

WS#1 requested additional officers to help secure the scene until ABS arrived. WS#1 said NE#1 came and approached the device. WS#1 recalled asking something to the effect of, "Whoa, whoa, whoa, what are you doing?" WS#1 said he activated his BWV at that point.

WS#1 described NE#1 manipulating the device and offering his assessment. WS#1 recalled telling NE#1 he could leave.

WS#1 said he did not order NE#1 to step away from the device because WS#1 was too surprised by NE#1's actions. WS#1 said he reported the incident to the Complainant for NE#1's supervisor to speak with him. WS#1 said that he told the Complainant that he did not order NE#1 to stop or walk away from the device. WS#1 speculated that the Complainant misunderstood his report to her.

**e. OPA Interview – NE#1**

NE#1 told OPA he was confused when he arrived on the scene, recounting:

*I got there. What you see in the photos, evidence tape...A couple – I think it was four cops just standing in a gaggle on the side. I couldn't see anybody else anywhere. I had no idea what was going on. . . . And then one of the cops showed me a cell phone photo of a pipe bomb[.]*

NE#1 told OPA he worked with explosives in the Marine Corps. NE#1 also recounted his experience as an Atlanta police officer in 1996 when pipe bombs exploded during the Olympics.

NE#1 said he did not believe the scene was a "controlled situation" because passersby could ignore the evidence tape despite being surrounded by evidence tape. NE#1 said he wanted to make the pipe bomb "safe," so he approached it and removed the fuse from the ignition source. NE#1 said, "The ignition source was nothing." NE#1 said he made the pipe bomb a "safe item that cannot be ignited." NE#1 said he left thereafter.

NE#1 also recounted that earlier that day, "somebody" mentioned that "all of ABS was out from COVID," leading him to believe it would take longer for ABS to arrive. NE#1 said, "I just knew I wanted to make that thing safe." NE#1 admitted he was not a member of ABS or a certified bomb technician. However, NE#1 expressed confidence in his knowledge of explosives from his Military Occupational Specialty, "0311, which was infantry." NE#1 said, "Anybody in



the Marine Corps in infantry, there's two things they know: explosives and rifles." NE#1 said he handled the pipe bomb because "I knew what I was dealing with, and I knew I could make it safe."

NE#1 denied remembering communicating with WS#1. NE#1 also denied anyone telling him to avoid the pipe bomb. NE#1 said he stopped handling the pipe bomb after he disarmed it.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

***15.015 - Bomb Threats & Explosive Devices 15.015-POL 1. Only Arson Bomb Squad (ABS) Personnel Who are Currently Certified as Bomb Technicians Shall Handle Explosive Devices***

The Complainant alleged that NE#1 handled an explosive device without authorization.

On the date of this incident, SPD policy stated, "Only Arson Bomb Squad (ABS) personnel who are currently certified as Bomb Technicians shall handle explosive devices." SPD Policy 15.015-POL-1 (eff. date 05/07/2019). If there was any doubt whether a sworn employee was dealing with an explosive device, they could contact ABS. *See id.*

Here, NE#1 violated this policy. NE#1 said he recognized the device as a pipe bomb from a photograph. NE#1 also said he manipulated the pipe bomb to make it safe. NE#1 was not a member of ABS or a certified bomb technician.

However well-intentioned NE#1's motivations were for violating this policy, it was inexcusable. Without having a meaningful conversation with WS#1 or determining whether ABS was contacted, NE#1 assumed, based on gossip, that ABS was unavailable. He also independently assessed that the scene was insecure. Rather than encouraging greater scene security, NE#1 manipulated a pipe bomb.

SPD policy limits handling explosive devices to ABS-certified bomb technicians, which NE#1 was not.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #2**

***5.001 - Standards and Duties 5.001-POL 15. Employees Obey any Lawful Order Issued by a Superior Officer***

The Complainant alleged that NE#1 violated a lawful order from a superior officer.

Department employees obey any lawful order issued by a superior officer. SPD Policy 5.001-POL-15. The failure to do so constitutes insubordination.

As discussed in the Administrative Note, WS#1 and NE#1 denied that WS#1 gave NE#1 any orders. That was partially corroborated by WS#1's BWV, which did not capture WS#1 issuing orders or WS#1 saying anything that suggested NE#1 violated an order before the audio began to record. That was further corroborated by civilian eyewitnesses who denied hearing any such orders. OPA finds that more likely than not, NE#1 did not disobey any lawful orders because no such orders were given.



Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**